WP(C) 2924/2007
BEFORE
HON'BLR MR JUSTICE AMITAVA ROY

Heard Mr AM Mazumdar, learned Senior counsel for the petitioners. Also heard Mr Mishra, learned Standing counsel , Education Department.

Having regard to the controversy raised and the relief prayed for and as agreed to by the learned counsel for the parties, I dispose of this petition at the motion stage.

The petitioners have introduced themselves as duly selected members of the Managing committee of Jaleswar Higher Secondary School (hereinafter referred to as the 'School'). According to them, they have been authorized by the said committee to espouse the present issue in this proceeding.

The Inspector of Schools, Goalpara District Circle, Goalpara by his letter dated 22.8.2006 had requested the Principal of the school to reconstitute the Managing committee thereof. Accordingly a general meeting was held as contemplated under Assam Higher Secondary(Provincialised) Schools Rules,1976 (hereinafter referred to as the 'Rules') on 11.10.2006. In the said general meeting one Afzalur Rahman, was unanimously elected/selected as the President of the newly constituted Managing committee of the school. Following that meeting another meeting was held in which the teachers representatives and guardian representatives were
selected/elected. On completion of the said exercise, the Principal of the school on 20.10.2006 forwarded the reconstitution of the Managing committee to the Inspector of School, GDC, Goalpara for approval under the Rules. While the matter rested at that, the petitioners have alleged , that the Ex-MLA, 39 Jaleswar Legislative Assembly Constituency submitted a panel of nominees before the Departmental Minister on 15.11.2006 for constituting the new Managing committee of the school. The Departmental Minister by his endorsement on the said communication approved the composition as suggested. Being confronted with such a situation, the Inspector of Schools, GDC, Goalparar by his letter dated 22.12.2006 sought for the intervention of the Director of Secondary Education, Assam to resolve the stalemate.

Mr Mazumdar has urged that under the relevant Rules there being no role of any MLA to suggest for constitution of Managing committee of Higher Secondary schools, the panel of nominees forwarded by the Ex-MLA of 39 Jaleswar Legislative Assembly Constituency is non est in law and therefore, the recommendation of the Departmental Minister is inoperative and null and void. In face of the reconstitution of the new Managing committee in terms of the Rules, the Departmental Minister ought not to have been accorded his approval to the new panel submitted by the Ex-MLA, he urged. He submitted that in the attending facts and circumstances, this petition may be closed by remanding the issue.

Mr Mishra submits that there cannot be two opinions that the constitution of the Managing committee of the school has tobe in terms of the Rules. He, however, has not been able to apprise this Court of any provision of law permitting the Ex-MLA, 39 Jaleswar Legislative Assembly Constituency to intervene in the process as done.

A bare perusal of the Rules, more particularly, Rule 3 makes it abundantly clear that the constitution of the Managing committees of Higher Secondary schools, High schools, Middle English schools to which the Rules apply has to be approved by the Inspector of schools and by the Director of Secondary Education under special circumstances. Rule 4 prescribes the make up of the Managing committee. The Rules do not approve submission of names by any public representative as in the instant case.

In that view of the matter, the panel of names submitted by the Ex-MLA, 39 Jaleswar Legislative Assembly Constituency on 15.11.2006 and approved by the Departmental Minister thereto being in contravention of the Rules is hereby interfered with. The Inspector of schools, GDC, Goalpara would now examine the constitution of the Managing committee of the school as forwarded by the Princip

al of the school on 20.11.2006 and take an appropriate decision in connection therewith in accordance with the Rules. This should be done within a period of two weeks from the date of receipt of the certified copy of this order.

The petition stands disposed in the above terms. No costs.